



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

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SITE: Bonte Hill
BREAK: 11.9
OTHER: _____

MAY 3 7 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Peter Salinski
Real del Monte Mining Corp.
1620-1801 Broadway Avenue
Denver, CO 80202

SUBJ: Request for Information under Sections 308 and 311 of the Clean Water Act,
33 U.S.C. §§ 1318 and 1321
Real del Monte Mining Corp.

Dear Sir:

The Federal Clean Water Act (Act or CWA), 33 U.S.C. §§ 1251-1387, prohibits the discharge of oil or hazardous substances into waters of the United States or adjoining shorelines in such quantities as may be harmful. The United States Environmental Protection Agency's (EPA) regulations at 40 C.F.R. Part 110 explain that, among other things, a discharge of oil that causes a film, sheen, discoloration, sludge or emulsion or violates applicable water quality standards is considered to be in a quantity that may be harmful. In addition, EPA's regulations at 40 C.F.R. Parts 116 and 117 designate hazardous substances under Section 311(b)(2)(A) of the Act, and the reportable quantities of such hazardous substances that when discharged are considered to be in quantities that may be harmful. Each discharge of oil or hazardous substances into waters of the United States in a quantity that may be harmful constitutes a violation of Section 311(b)(3) of the Act, 33 U.S.C. §1321(b)(3).

EPA has information suggesting that each discharge event identified in Enclosure 1 may have been a violation of the Act. Sections 308(a) and 311(m) of the Act, 33 U.S.C. §§ 1318(a) & 1321(m), authorize EPA to require any person to provide information needed to determine whether there has been a violation of the Act. Accordingly, EPA requests your response to the inquiries in Enclosure 2 within 30 calendar days of your receipt of this letter.

Please answer each question as clearly and completely as possible. Your response to this information request must be accompanied by the Statement of Certification in Enclosure 3, signed and dated by you or the person who is authorized by you to respond to the request. The signed Certification Statement certifies, among other things, that the response is complete and contains all information and documentation available to you or Real del Monte Mining Corp. pursuant to the request.



Please submit your written response within 30 calendar days of receipt of this letter to:

Mel Rechtman
Enforcement & Compliance Section
RCRA and OPA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Although the information requested must be submitted to EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. § 2.203, covering part or all of the information, by clearly identifying it as "confidential" using a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. You should clearly mark as "confidential" any parts of otherwise non-confidential documents and may submit them separately to help EPA handle and identify them. Unless a confidentiality claim accompanies the information when it is received by the EPA, we may make the information available to the public without further notice to you.

Compliance with this letter is mandatory. If you do not respond fully and truthfully to this Information Request or adequately justify your failure to do so, you may be subject to civil penalties or criminal fines under Section 309 of the Act, 33 U.S.C. § 1319. This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an Agency enforcement activity. The enclosed Information Sheet (Enclosure 4) provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. If you qualify as a small business under SBREFA regulations at 13 C.F.R. § 121.201, this material applies to you.

EPA appreciates your prompt attention to this matter. If you would like an opportunity to confer, or if you have any questions relating to this request for information, please contact Jacq Marie Jack at (404) 562-8480. Thank you for your cooperation in this matter.

Sincerely,



Narindar Kumar, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

1. List of Discharge Event(s)
2. Clean Water Act Section 308/311 Letter Information Required for Discharge Event(s)
3. Statement of Certification
4. Information Sheet (U.S. EPA Small Business Resources)

ENCLOSURE 1**LIST OF DISCHARGE EVENTS¹**

Please provide the following information with respect to discharges of oil or hazardous substances, as well as for any other discharge of oil and/or hazardous substance which occurred in the last five years within the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, or Tennessee. Where applicable, diagrams of the discharge location and copies of maps of the area can be used to explain your answers to the questions.

NRC Report No. 830526 (copy enclosed)

On or about March 27, 2007, Real del Monte Mining Corp. discharged hazardous materials off or near State Highway 3030 in or near McCormick in McCormick County, South Carolina.

¹ For each spill listed in Enclosure 1 for which the facility paid a fine, the facility has the option of providing the settlement document and proof of payment in lieu of answering the questions contained in Enclosure 2.

**ENCLOSURE 2 - CLEAN WATER ACT SECTION 308/311 LETTER
INFORMATION REQUIRED FOR DISCHARGE EVENTS**

Please provide the following information with respect to discharges of oil or hazardous substances identified in Enclosure 1, as well as for any other discharge of oil and/or hazardous substance which occurred in the last five years within the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, or Tennessee. Where applicable, diagrams of the discharge location and copies of maps of the area can be used to explain your answers to the questions.

INSTRUCTIONS

1. Identify the person(s) answering these questions on behalf of Respondent, including full name, business mailing address, business telephone number, and relationship to Respondent.
2. Please provide a separate narrative response for each occurrence of a discharge and to each and every Question and subpart of a Question set forth in this Information Request.
3. Precede each answer with the number of the Question to which it corresponds.
4. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
5. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this Enclosure 2:

1. The term "Act" refers to the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, also known as the Clean Water Act.
2. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

3. The term "arrangement" means every separate contract or other agreement between two or more persons.
4. The term "asset" shall include the following: real estate, buildings or other improvements of real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.
5. The term "discharge" has the same definition as that contained in Section 311(a) of the Act, and includes any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
6. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photostatic or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
7. The term "hazardous substance" shall have the same definition as that contained in Section 311(b)(2) of the Act, and includes any mixtures of such substances with any other substances.
8. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
9. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full

name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

10. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and the substance or the subject matter.
11. The term "oil" shall have the same definition as that contained in Section 311(a)(1) of the Act, and includes any mixtures of such substances with any other substances.
12. The term "onshore facility" shall have the same definition as that contained in Section 311(a) of the Act: any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.
13. The term "owner or operator" shall have the same definition as that contained in Section 311(a) of the Act, and includes any person owning or operating an onshore facility.
14. The term "person" shall have the same definition as that contained in Sections 311(a) and 502 of the Act: an individual, firm, corporation, association, partnership, State, municipality, commission, or political subdivision of a State, or any interstate body.
15. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.
16. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
17. The term "you" or "Respondent" shall mean Real del Monte Corp., the addressee of this letter, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
18. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
19. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Act, in which case the statutory or regulatory definitions shall apply.

REQUESTED INFORMATION

1. State the full and correct name of the owner and the operator of this onshore facility and provide the facility address. If the owner and/or operator is a corporation, provide the name and address of its president and/or registered agent. If the owner and the operator are separate people or entities, provide the requested information for both the owner and the operator.
2. Identify the discharged oil and/or hazardous substance. If the discharged material is a hazardous substance, provide a Material Data Safety Sheet for the discharged product. If the solution discharged was a mixture, please give the approximate percentages of substances in the mixture or solution.
3. Provide the amount of oil and/or hazardous substance discharged. Provide all documents showing how the Respondent calculated the amount of the release. Include initial estimates and all subsequent estimates with copies of all mathematical calculations and list any assumptions made in the calculations.
4. Provide the amount of oil and/or hazardous substance discharged that reached a waterway (river, stream, lake, pond, impoundment, wetland, drainage ditch, sewer, storm drain, etc.), including a waterway that may have been dry at the time of the discharge. Identify the waterway that received the discharge and its downstream receiving waters. If none of the oil and/or hazardous substance reached a waterway, state so.
5. For those discharges that entered waterways, state the time and date when someone first saw a film or sheen or sludge or emulsion on or in the waterways. Provide the name of the person who made this determination. List his/her title and phone number (if known.)
6. For those discharges that entered a waterway, state the time and date when a film or sheen or sludge or emulsion on the waterway was no longer visible on or in the waterway. Provide the name of the person who made this determination. List his/her title and phone number (if known.) Include the criteria the person used in making the determination and a copy of the calculations.
7. Provide a USGS topographic 7.5 minute topographic map with the location of the discharge clearly marked and identified on the map.
 - a. On the USGS topographic map show the area where the discharge commenced and the maximum extent of the discharge. If the discharge area is too small to

mark on the map, only indicate the site of the discharge. Submit an additional map on a larger scale showing the maximum extent of the discharge. Provide any additional photographs, drawings and charts of the discharge in your possession. If other documents exist that are not in your possession, provide the names of the persons who you believe has these documents in their possession.

b. On the USGS topographic map, post and identify the nearest downstream water intake from the discharge. State how the Respondent made this determination.

8. Describe the cause of the discharge. Include in your description what happened, when did the discharge occur, who first saw the discharge and when, who first reported the discharge, when, and to whom, where did the discharge occur, why did the discharge occur and how did the discharge occur.

If the discharge occurred at a stationary facility, state whether at the time of the discharge, the facility had a National Pollutant Discharge Elimination System (NPDES) permit or any other discharge permits provided by the local, state, or federal government. If yes, provide a copy of the permit.

If the discharge occurred from a tank, provide the total volume of tank storage at the facility (not the volume of material stored on site at the time of the discharge). If the aggregate aboveground oil storage capacity at the facility exceeds 1320 gallons or the buried oil capacity is greater than 42,000 gallons, submit the facility's Spill Prevention, Control, and Countermeasures (SPCC) plan.

If the facility does not have a current SPCC plan, explain why it is not required to have a plan.

If the total of the oil storage capacity exceeds one million gallons, provide a copy of the Facility Response Plan.

9. Provide a list of costs associated with actions your company took which resulted in a direct environmental benefit and/or direct response/corrective action as a result of the spill.
10. Describe the actions including the time each action occurred which shows that the Respondent mitigated the effects of the discharge. Indicate what actions the Respondent took to prevent similar events from occurring in the future. Provide the names, titles and phone number (if available) of any Federal, State, or local official(s) who witnessed the discharge or any mitigation activities.

11. If the Respondent already paid a penalty to a State or a local authority arising out of this same incident, provide a copy of the documentation showing the amount paid. Include proof of payment. If the Respondent has not paid a penalty for this spill, state so.
12. State any relevant factors involved in this discharge that the Respondent wishes to bring to the attention of EPA.

ENCLOSURE 3 - STATEMENT OF CERTIFICATION

I certify that the foregoing responses and information submitted were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By: _____
(Signature)

(Title)

(Date)

ENCLOSURE 4 - Small Business Regulatory Enforcement and Fairness Act (SBREFA) Information Sheet

Information for Small Businesses If you are small business as defined by the Small Business Administration (defined at 13 CFR 121.201; in most cases, this means a business with 500 or fewer employees), below is information you may find helpful. The United States Environmental Protection Agency (EPA) offers small businesses a wide variety of compliance assistance resources and tools designed to assist businesses to comply with federal and State environmental laws. These resources can help businesses understand their obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Websites EPA offers a great deal of compliance assistance information and materials for small businesses on the following Websites, available through public libraries:

- # www.epa.gov *EPA's Home Page*
- # www.smallbiz-enviroweb.org *EPA's Small Business Home Page*
- # www.smallbiz-enviroweb.org/state.html *List of State Contacts*
- # www.epa.gov/ttn/sbap *Small Business Assistance Programs*
- # www.epa.gov/oeca/polguid/index.html *Enforcement Policy and Guidance*
- # www.epa.gov/oeca/smbusi.html *Small Business Policy*
- # www.epa.gov/oeca/oc *Compliance Assistance Home Page*
- # www.epa.gov/oeca/ccsmd/commpull.html *Small Businesses and Commercial Services*
- # www.epa.gov/oeca/ccsmd/mun.html *Small Communities Policy*

Hotlines EPA sponsors approximately 89 hotlines and clearinghouses that provide free and convenient avenues to obtain assistance with environmental requirements. EPA's Small Business Ombudsman Hotline can provide you with a list of all the hot lines, and assist you with determining which hotline will best meet your needs. Key hotlines that may be of interest to you include:

- # EPA's Small Business Ombudsman.....(800) 368-5888
- # RCRA/UST/CERCLA Hotline..... (800) 424-9346
- # Toxics Substances and Asbestos Information.....(202) 554-1404
- # Safe Drinking Water..... (800) 426-4791
- # Stratospheric Ozone/CFC Information..... (800) 296-1996
- # Clean Air Technical Center.....(919) 541-0800
- # Wetlands Hotline..... (800) 832-7828

Compliance Assistance Centers EPA has established national compliance assistance centers, in partnership with industry, academic institutions, and other federal and State agencies, that provide on line and fax back assistance services in the following sectors heavily populated with small businesses:

- # Access to All Centers (www.epa.gov/oeca/mfcac.html)

Metal Finishing (1-800-AT-NMFRC or <http://www.nmfrc.org>)
 # Printing (1-888-USPNEAC or <http://www.pneac.org>)
 # Automotive (1-888-GRN-LINK or <http://www.ccar-greenlink.org>)
 # Agriculture (1-888-633-2155 or <http://www.epa.gov/oeca/ag>)
 # Printed Wiring Board Manufacturing (<http://www.pwbrc.org>)
 # The Chemical Industry (1-800-672-6048 or <http://www.chemalliance.org>)
 # The Transportation Industry (<http://www.transource.org>)
 # The Paints and Coatings Center (<http://www.paintcenter.org>)
 # Local Governments (1-877-TO-LGEAN or <http://www.lgean.org>)

State Agencies Many State agencies have established compliance assistance programs that provide on-site as well as other types of assistance. Please contact your local State environmental agency for more information. EPA's Small Business Ombudsman can provide you with State Agency contacts by calling (800)-368-5888.

Compliance Incentive Policies EPA's Small Business Policy and Small Communities Policy are intended to promote environmental compliance among small businesses by providing incentives such as penalty waivers and reductions for participation in compliance assistance programs, and encouraging voluntary disclosure and prompt correction of violations. These policies can not be applied to an enforcement action that has already been initiated. Contact Ginger Gotliffe (202-564-2310) for information on the Small Business Policy and Ken Harmon (202-564-2310) for information on the Small Communities Policy. In order to improve your understanding of and compliance with environmental regulations and avoid the need for future enforcement actions, we encourage you to take advantage of these tools.

However, please note that any decision to seek compliance assistance at this time does not relieve you of your obligation to respond to an EPA request, administrative or civil complaint in a timely manner, does not create any new rights or defenses, and will not affect EPA's decision to pursue this enforcement action.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and ten Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your SIC designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201) and wish to comment on federal enforcement and compliance activities, call 1-888-REG-FAIR (1-888-734-3247).

However, participation in this program does not relieve you of your obligation to respond to an EPA request, administrative or civil complaint or other enforcement action in a timely manner nor create any new rights or defenses under law. In order to preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The ombudsman and fairness boards do not participate in the resolution of EPA's enforcement

action.

Dissemination of this information sheet does not constitute an admission or determination by EPA that your business, organization or governmental jurisdiction is a small entity as defined by the Small Business Regulatory Enforcement and Fairness Act (SBREFA) or related provisions nor does it create any new rights or defenses under law.